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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/667,876  | 09/22/2003  | Bryan Taylor         | 0000PCO/0509820     | 1154             |
| 26874   | 7590        | 01/06/2006           | EXAMINER            |                  |
| FROST BROWN TODD, LLC<br>2200 PNC CENTER<br>201 E. FIFTH STREET<br>CINCINNATI, OH 45202 |             |                      | PICO, ERIC E        |                  |
|   |             | ART UNIT             | PAPER NUMBER        | 3654             |

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/667,876             | TAYLOR ET AL.       |  |
|                              | Examiner<br>Eric Pico  | Art Unit<br>3654    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 and 36-44 is/are pending in the application.
  - 4a) Of the above claim(s) 24-35 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-23 and 36-44 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 April 2004 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 04/20/04, 07/21/05.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 46a, 46b, 46c, 122, 124, 126, 128, 130, 132, 136, 134, 138, 140, 142. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, two vertically moveable jacks disposed in a single housing stated in claim 16 and the vertically moveable jacks which are disposed in a single housing are horizontally moveable stated in claim 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Response to Arguments***

3. Applicant's arguments, see Response Page 7 Paragraph 2, filed 10/12/2005, with respect to the traverse regarding claims 19-23 have been fully considered and are persuasive. The restriction of claims 19-23 has been withdrawn.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim(s) 1, 2, 4-8, 10, 11, 14, 15, 18-22, 36, 38, and 40-43 is/are rejected under 35 U.S.C. 102(b) as being anticipated by Fletcher U.S. Patent No. 5404968.

6. **Regarding claim 1**, Fletcher discloses an inground lift for use in a lift bay having a lift bay floor, comprised of recess 34 and support means 38.

7. Fletcher further discloses vertically moveable jacks 24, 28 having a distal end 74, 76 configured to engage a vehicle.

8. Fletcher further discloses the structure is configured to interact with the lift bay floor, through spider-like structure 36 and support means 38, to transfer substantially all load placed on the distal end 74 of the jack 28 to the lift bay floor, shown in Figure 2 and 6.

9. **Regarding claim 2**, Fletcher further discloses jack 24 is horizontally movable.

10. **Regarding claim 4**, Fletcher further discloses a mechanism configured to move the horizontally moveable jack 24 horizontally, shown in Figure 8.

11. **Regarding claim 5**, Fletcher further discloses the mechanism is supported by the structure.

12. **Regarding claim 6**, Fletcher further discloses the mechanism comprises a horizontally moveable carriage, referred to as a trolley 22, supported by a track 20.

13. **Regarding claim 7,** Fletcher further discloses the structure comprises a plurality of laterally extending members, not numbered but shown in Figures 1-4, and 6 extending from spider-like structure 36 into support means 38 and recess 34.
14. **Regarding claim 8,** Fletcher further discloses the laterally extending members are arranged in a pattern configured to provide necessary structural strength for the lift bay floor to support the jack 28.
15. **Regarding claim 10,** Fletcher further discloses a plurality of laterally extending members comprise a "U" shape.
16. **Regarding claim 11,** Fletcher further discloses the "U" shape opens laterally outward.
17. **Regarding claim 14,** Fletcher further discloses the vertically moveable jack comprises a telescoping cylinder comprised of pistons 70, 72 and cylinder 40, 42.
18. **Regarding claim 15,** Fletcher further discloses two vertically moveable jacks 24, 28.
19. **Regarding claim 18,** Fletcher further discloses one of the two vertically moveable jacks 24, 28 is disposed in a housing 10, 16 separate from another vertically moveable jack 28, 24.
20. **Regarding claim 19,** Fletcher further discloses a lift bay comprising a lift bay floor, comprised of recess 34 and support means 38.
21. Fletcher further discloses an inground lift comprising a vertically moveable jack 28, a distal end 74 of the jack 28 configured to engage a vehicle, and a structure configured to interact with the lift bay floor, through spider-like structure 36 and support

means 38, to transfer substantially all load placed on the distal end of the jack to the lift bay floor.

22. Fletcher further discloses a supporting layer, not numbered but shown in Figure 1, underlying the lift bay floor.

23. It is inherent the supporting layer disclosed by Fletcher is configured to provide support to the lift bay floor sufficient for the lift bay floor to carry the load which is transferred to the lift bay floor by the structure.

24. It is further inherent the lift bay floor disclosed by Fletcher is configured to have sufficient structural capacity to carry the load when supported by the supporting layer.

25. **Regarding claim 20**, Fletcher further discloses the lift bay floor having a nominal thickness, referred to as a recess 34, distal from the inground lift, the lift bay floor having an increased thickness, referred to as support means 38, proximal the inground lift.

26. **Regarding claim 21**, Fletcher further discloses the thickness of the lift bay floor slopes from the nominal thickness to the increased thickness, shown in Figures 1-4, 6.

27. **Regarding claim 22**, Fletcher further discloses Fletcher further discloses the supporting layer comprises material adjacent the inground lift, shown in Figure 1.

28. It is inherent the supporting layer disclosed by Fletcher holds rigid properties for the inground lift to function.

29. **Regarding claim 36**, Fletcher further discloses an inground lift for use in a lift bay having a lift bay floor.

30. Fletcher further discloses the lift comprising first and second self contained lift modules, each lift module comprising a vertically moveable jack 24, 28, means for

moving the jack, referred to as power means 26, 30 shown in Figure 5, and a housing, referred to as cavities 10, 16.

31. **Regarding claim 38,** Fletcher further discloses the jack 24 of the first module being horizontally moveable.

32. Fletcher further discloses the first lift module comprising means for moving the jack 24 horizontally, comprised of a trolley 22 and track means 20.

33. **Regarding claim 40,** Fletcher further discloses a lift bay floor comprised of recess 34 and support means 38, the structure interacting with the lift bay floor.

34. Fletcher further discloses a supporting layer, not numbered but shown in Figure 1, underlying the lift bay floor.

35. It is inherent the supporting layer disclosed by Fletcher is configured to provide support to the lift bay floor sufficient for the lift bay floor to carry the load which is transferred to the lift bay floor by the structure.

36. It is further inherent the lift bay floor disclosed by Fletcher is configured to have sufficient structural capacity to carry the load when supported by the supporting layer.

37. **Regarding claim 41,** Fletcher further discloses the lift bay floor having a nominal thickness, referred to as a recess 34, distal from the inground lift, the lift bay floor having an increased thickness, referred to as support means 38, proximal the inground lift.

38. **Regarding claim 42,** Fletcher further discloses the thickness of the lift bay floor slopes from the nominal thickness to the increased thickness, shown in Figures 1-4, 6.

39. **Regarding claim 43,** Fletcher further discloses the supporting layer comprises material adjacent the inground lift, shown in Figure 1.

40. It is inherent the supporting layer disclosed by Fletcher holds rigid properties for the inground lift to function.

***Claim Rejections - 35 USC § 103***

41. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

42. Claim(s) 3, 16, 17, 37, and 39 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher U.S. Patent No. 5404968 in view of Proulx et al. U.S. Patent No. 5259482.

43. **Regarding claim 3,** Fletcher discloses a horizontally moveable jack 24.

44. Fletcher is silent concerning a sensor for sensing respective horizontal positions of the horizontally moveable jack.

45. Proulx et al. teaches a control panel 42 that operates a hydraulic cylinder 22 to horizontally displace the mobile lift post 10 to an appropriate position, which depends on the wheel base of the vehicle to be repaired. A sensor for sensing respective horizontal position is an inherent element of control panel 42 for the control panel 42 to appropriately position a vehicle depending on the wheel base of the vehicle.

46. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a sensor taught by Proulx et al. to the horizontal moveable jack

disclosed by Fletcher to appropriately position a vehicle depending on the wheel base of the vehicle.

47. **Regarding claim 16**, Fletcher discloses two vertically moveable jacks 24, 28.

48. Fletcher is silent concerning the two vertically moveable jacks disposed in a single housing.

49. Proulx et al. teaches two vertically moveable jacks 10, 14 disposed in a single housing, referred as pit P and communicates with ground chamber 12 shown in Figure 1.

50. It would have been obvious to one of ordinary skill in the art at the time of the invention to house the two vertically moveable jacks disclosed by Fletcher in a single housing taught by Proulx et al. to facilitate access to both jacks within the housing.

51. **Regarding claim 17**, Fletcher discloses vertically moveable jacks 24, 28 disposed in separate housings wherein one vertically moveable jack is horizontally moveable.

52. Fletcher is silent concerning each of the vertically moveable jacks are disposed in a single housing are horizontally moveable.

53. Proulx et al. teaches vertically moveable jacks 10, 14 disposed in a single housing wherein one vertically moveable jack 10 is horizontally moveable.

54. It would have been obvious to one of ordinary in the art at the time of the invention was made to make each vertically moveable jack horizontally moveable as well to extend the range between the jacks to support longer vehicles, since it has been

held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

55. **Regarding claim 37**, Fletcher is silent concerning a control panel.
56. Proulx et al. teaches a control panel 42 configured to receive operator inputs to selectively control movement of the jacks.
57. Proulx et al. further teaches the control panel 42 being separate from modules.
58. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a control panel taught by Proulx et al. to the lift disclosed by Fletcher to facilitate safe control of the lifting device.
59. **Regarding claim 39**, Fletcher discloses an inground lift comprising a vertically and horizontally moveable jack 24 having a distal end 76 configured to engage a vehicle.
60. Fletcher is silent concerning an electric control.
61. Proulx et al. teaches an electric control 42 configured to selectively control vertically and horizontal movement of a vertically and horizontally moveable jack based upon user input, the control 42 being selectable between a positioning mode in which user input directs the horizontal movement of the vertically and horizontally moveable jack 10 and a lifting mode in which user inputs directs the vertical movement of the vertically and horizontally moveable jack 10.
62. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide an electric control panel taught by Proulx et al. to the lift disclosed by Fletcher to facilitate safe control of the lifting device.

63. Claim(s) 9, 12, 13 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher U.S. Patent No. 5404968 in view of Mosby U.S. Patent No. 6152652.

64. **Regarding claim 9,** Fletcher is silent concerning laterally extending members comprise a "V" shape.

65. Mosby teaches laterally extending members comprise a "V" shape, created by ties 54 and loop 62.

66. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the extending members disclosed by Fletcher comprise a "V" shape taught by Mosby to reinforce the supporting means of the inground lift.

67. **Regarding claim 12,** Fletcher is silent concerning laterally extending "U" shape members opening upwardly.

68. Mosby teaches laterally extending members 70, 72 comprise a "U" shape that opens upwardly.

69. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the extending members disclosed by Fletcher a "U" shape that opens upwardly taught by Mosby to reinforce the supporting means of the inground lift.

70. **Regarding claim 13,** Fletcher is silent concerning first and second spaced apart "U" shape members.

71. Mosby teaches "U" shape comprises first 70 and second 72 spaced apart members, the first member 70 being shorter than the second member 72.

72. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide first and second spaced apart "U" shape members taught by Mosby

to the inground lift disclosed by Fletcher to reinforce the supporting means of the inground lift.

73. Claim(s) 23 and 44 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher U.S. Patent No. 5404968 in view of Kreysler et al. U.S. Patent No. 5701706.

74. **Regarding claim 23,** Fletcher discloses a supporting layer comprised of rigid material.

75. Fletcher is silent concerning the supporting layer comprises pea gravel disposed adjacent the inground lift underlying the rigid material.

76. Kreysler et al. teaches a supporting layer comprised of pea gravel 42, underlying a rigid material being a concrete cap C.

77. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the support layer disclosed by Fletcher from pea gravel taught by Kreysler et al. to provide a self compacting aggregate, facilitating expansion of the apparatus and firm support.

78. **Regarding claim 44,** Fletcher discloses a supporting layer comprised of rigid material.

79. Fletcher is silent concerning the supporting layer comprises pea gravel disposed adjacent the inground lift underlying the rigid material.

80. Kreysler et al. teaches a supporting layer comprised of pea gravel 42, underlying a rigid material being a concrete cap C.

81. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the support layer disclosed by Fletcher from pea gravel taught by Kreysler et al. to provide a self compacting aggregate, facilitating expansion of the apparatus and firm support.

***Conclusion***

82. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fagan U.S. Patent No. 1654073, Weaver U.S. Patent No. 2015357, Walker U.S. Patent No. 2564289, Rozanski U.S. Patent No. 4077173, Doane U.S. Patent No. 4226062, Reed U.S. Patent No. 4263762, Brown U.S. Patent No. 4546024, Fletcher et al. U.S. Patent No. 5573083, Campbell et al. U.S. Patent No. 6539678.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Pico whose telephone number is 571-272-5589. The examiner can normally be reached on 6:30AM - 3:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EEP



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